

The complaint

Mr W complains that Secure Trust Bank Plc, trading as V12 Retail Finance, won't refund him for a watch he bought.

What happened

In July 2023 Mr W used finance (a Fixed Sum Loan Agreement) provided by Secure Trust Bank Plc, trading as V12 Retail Finance ('V12' for short) to purchase a watch costing £3770 from a supplier. Shortly afterwards he noticed the strap keeper was fraying. So he returned it to the supplier's shop who in turn returned it to the manufacturer. The manufacturer replaced the strap and the watch was returned to Mr W. Mr W is concerned the issue may happen again and that he wasn't allowed to return the watch. He also feels the watch was not as described. So Mr W complained to V12.

V12 considered his dispute with the supplier and considered it under a claim under section 75 of the Consumer Credit Act 1974 ("S75" and "CCA" respectively). It concluded that it didn't have to do anything further for Mr W. Feeling that V12's position to be unfair Mr W brought his complaint to this service.

Our investigator looked into the matter. Overall, she felt that V12 had fairly treated Mr W. Mr W didn't agree. So the complaint has been passed to me to decide.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I should make very clear that this decision is not about the supplier who sold the watch because it isn't a financial services provider and doesn't fall within my remit regarding Section 75. Whatever the issues there maybe with the supplier here, and just because Mr W says she has lost out, it doesn't necessarily follow that V12 has treated Mr W unfairly or that it should refund him. And this decision is solely about how V12 treated Mr W. I hope this point is clear.

The CCA

The CCA introduced a regime of connected lender liability under S75 that afforded consumers ("debtors") a right of recourse against lenders ("creditors") that provide the finance for the acquisition of goods or services from a third-party merchant (the "supplier" here). S75 says:

"If the debtor under a debtor-creditor-supplier agreement falling within section 12(b) or (c) has, in relation to a transaction financed by the agreement, any claim against the supplier in respect of a misrepresentation or breach of contract, he shall have a like claim against the creditor, who, with the supplier, shall accordingly be jointly and severally liable to the debtor."

So the test is here, did V12 consider Mr W's S75 claim to it fairly, or in other words are the pre-requisites of the CCA in place (financial limits and Debtor Creditor Supplier arrangement) and is there a breach of contract or material misrepresentation made out here against the Merchant that V12 should fairly be held responsible for. I'm satisfied the financial limits test and Debtor Creditor supplier arrangements are made out here. I now consider breach and misrepresentation as I see these as the key aspects of Mr W's complaint.

What Mr W is in essence arguing is that the watch was unsatisfactory quality. The Consumer Rights Act 2015 ('CRA' for short) is the relevant law here and it sets out what unsatisfactory quality means. This says every contract to supply goods is to be treated as including a term that the quality of the goods is satisfactory and that the quality of goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory, taking account of; any description of the goods, the price or other consideration for the goods and all the other relevant circumstances. And the quality of goods should be considered through the appropriate lenses such as 'fitness for all the purposes for which goods of that kind are usually supplied,' 'appearance and finish,' 'freedom from minor defects,' 'safety', and 'durability'.

Here we have the manufacturer's record of the inspection it carried out a month after Mr W signed the agreement for the finance for the watch. It explains a number of issues with the watch and notes it has replaced the full strap rather than just the strap keeper which is what Mr W has complained about. It is evident that the part of the watch (the strap keeper) is not substantial in terms of its proportion of the cost of the whole watch and not substantial in terms of the overall aesthetic and functionality of the watch also. When considering whether goods are satisfactory quality it is the entire purchased good that is put to the 'reasonable person' test not individual constituents of it, after all Mr W didn't purchase the watch by purchasing each individual constituent item individually making up the watch as a whole. So I'm not necessarily persuaded that this watch met the threshold test of being unsatisfactory quality at the point of purchase due to the minimal nature of the issue and the rest of the watch being free of any defect.

Mr W says he tried to exercise his right to the short term right to reject when the shop inspected the watch. However it is also clear that he allowed the watch to be sent to the manufacturers for inspection and it is latterly that he's said he wanted to return it. Nevertheless having seen the manufacturers report it's clear that the watch had significant scratches and had been worn. So clearly, aside from the issues with the strap keeper, it is clear since Mr W took ownership of the watch it had been damaged. So I'm not persuaded it would be fair for Mr W to reject the watch particularly seeing as I'm not persuaded it met the threshold of being unsatisfactory quality at the point of sale and that it had significant damage by the time the manufacturer inspected it.

The short term right to reject isn't the only available remedy under the CRA. Other remedies include replace, repair and price reduction. Here the manufacturer has replaced the strap as a whole. Mr W, although concerned about the possibility of the same thing happening again hasn't actually demonstrated any failing with the replacement strap. From the manufacturer's report it's clear it has replaced the strap on a new for old basis (albeit the original strap being only a month old). This is a fair remedy under the CRA to my mind. So even if the watch was unsatisfactory quality at the point of sale (which I'm not necessarily persuaded of) this replacing of the strap is a fair remedy to this issue in any event.

Mr W says the watch wasn't as described due to his discovering after purchase that the strap keeper although being described as leather has an internal rubber section to it. I'm not persuaded that this constitutes a material misrepresentation. Firstly I've considered the make and model and the manufacturer's description (on its website) of the strap and it doesn't say '100% leather' or 'all leather' or similar. I've also considered other sellers of the

same watch and also the historic records of the website of the supplier. In none of these have I seen such comments or indeed any detailed description of the strap keeper itself. So I'm not persuaded he's been misled. And in any event bearing in mind the relatively minor role of the strap keeper in the whole watch's specification I'm not persuaded had he been told it had a rubber centre for longevity he'd have decided not to buy the watch. I think it more likely that he wanted to buy the watch for its style, aesthetic, functionality and clear kudos from having such a high end watch. I'm not persuaded the strap keeper was a key factor in his decision to purchase the watch.

Mr W has said this issue is "*having a profound effect on my mental health and my blood pressure.*" I'm very sorry to hear this. However it is important to remember that to uphold this complaint I have to be persuaded on balance of probabilities that V12 has considered this S75 claim to it matter unfairly. It has the independent manufacturer's inspection of the watch supplied to it in its consideration of Mr W's complaint about how it considered his S75 claim to it. I think it can fairly rely on this evidence in the absence of more persuasive contrary evidence.

Mr W makes a number of arguments about the state of the strap keeper and has provided photos of this. And I'm sorry that those issues were present. However it's been replaced and that's a fair remedy under the CRA. So I don't think V12 has anything further to do.

I do appreciate that this isn't the decision Mr W wants to read. And that it leaves him disappointed. But that doesn't make it fair for V12 to refund him when there's no persuasive evidence that the watch was of unsatisfactory quality or that the replacement strap wasn't a fair remedy or has meant he's lost out.

My final decision

For the reasons set out above, I do not uphold the complaint against Secure Trust Bank Plc, trading as V12 Retail Finance. It has nothing further to do on this matter.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 20 September 2024.

Rod Glyn-Thomas
Ombudsman